

## **SUMMARY OF INTERVIEW**

A brief telephonic discussion was held on July 26, 2007 in which the Examiner and counsel discussed the pending claims and the Evans reference. While no agreement was reached at that time, the above amendment is believed to address the outstanding matters. Applicant requests reconsideration based on the amendment and the remarks herein.

## **REMARKS**

Claims 1-46 and 48-60 are pending in the application. Claims 53-58 have been withdrawn. By this paper Claims 1, 7-14, 16-24, 29-32, 33-36, 44, 45 and 50 are amended, and support for the amendment may be found throughout the specification as filed, and particularly in at least at page 5, lines 2-6; page 43, lines 10-41; and as filed Claim 47 (new Claims 59 and 60). Applicant asserts that the subject matter of new Claims 59 and 60 are patentable for the reasons discussed below, if the pending rejection were asserted against new Claims 59 and 60.

### **35 U.S.C. § 101 Rejection**

Claims 1-32, 34-42 and 44-52 are rejected under 35 U.S.C. § 101 as lacking utility. Applicant respectfully disagrees. By this paper Claims 1, 16-24, 29, 44, 45 and 50 are amended, thus obviating the pending rejection under 35 U.S.C. § 101. Thus, the dependent claims which depend from independent Claims 1, 16, 23, 29 and 44 are also believed to be patentable under §101. Applicant reserves the right to pursue the subject matter in a related case as the Office's view regarding §101 appears to be unduly narrow based on the state of the law.

Take for example, Claim 1, Claim 1 is patentable as the claim, in part, recites: "A programming interface for generating a program embodied on one or more computer readable media, comprising instructions that, when implemented by a computing system, cause the computing system to generate." Claim 1 is patentable under 35 U.S.C. § 101 as the claim recites implementation by a computing system and use in programming an application.

With respect to independent Claim 36 and Claims 37-43, which depend from Claim 36, the pending rejection is improper because Claim 36 is written to include mean-plus-function features and the Office has failed to properly interpret the language under 35 U.S.C. § 112, paragraph six. The Office's interpretation fails to note that the functions specified in Claim 36 have equivalents in the written description and the specified functions have recognized utility in the field of computers and programming. As Claim 36 is directed to a system, physical transformation is believed to be unnecessary as the written description recites utility in the field of computing and programming. The physical transformation test or the subsequent concrete, tangible result tests are only applied once a determination has been made that the claim is directed to a practical application of a 35 U.S.C. § 101 judicial exception. *M.P.E.P.* § 2106(c)(2)(1). While Applicant has amended Claim 36 to further prosecution, Applicant reserves the right to pursue the subject matter in a related case as the Office's contentions appear to be an unduly narrow reading of United States Patent Law. For at least the foregoing reasons, the

pending rejection is improper. Removal of the pending rejection to Claims 1-32, 34-42 and 44-52 is requested and allowance is solicited.

### **35 U.S.C. §102(e) Rejection**

Claims 1-8, 12, 14-39 and 41-52 are pending a rejection under 35 U.S.C. §102(e) over United States Patent Publication 2002/005406 naming Evans et al (hereinafter “Evans”). Applicant traverses the pending rejection.

The Evans reference is not applicable under 35 U.S.C. §102(e) as Evans discloses “A system and method are described that use theming functions of a theme manager to render graphical components in a themed fashion.” Evans Abstract. For example, “in order to enhance the user experience of the computer, it would be desirable for the user to have the ability to change the overall “look and feel” of the graphical display by changing the overall visual appearance or “theme” of the various graphical components.” Page 1, paragraph [0008].

In comparison, the present Application recites “A programming interface for generating applications, documents, media presentations and other content.” Application, Page 5, lines 2-3. While the reference is directed to changing overall visual appearance . . . of the various graphical components, **Claim 1** of the present application is directed, in part, to “services related to generating graphical components for inclusion in an application being programmed.” Evans is directed to “changing” existing graphical components, such as the appearance of an “O.K.” button or a “cancel” button (Evans, FIG. 3) which is included in an application

(i.e., exists and can be changed to fit a theme). In contrast, the recited subject matter is directed to services for use in programming. For at least the foregoing reasons, the pending rejection is improper. Removal of the pending rejection is requested and allowance is solicited.

Similarly amended **Independent Claim 16**, now in part recites:

- “a first group of programming services for formatting content, for inclusion in an application being created, prior to displaying the content.”

The features of amended Claim 16, are not shown in the art of record as the cited reference discloses “rendering” while Claim 16, in part recites “programming”. For at least the foregoing reasons, the pending rejection is improper. Removal of the pending rejection is requested and allowance is solicited.

As amended, **Independent Claim 23**, in part, now recites:

- “a first group of services for generating graphical objects for use in an application being created”

As amended Claim 23 is allowable as the art of record does not disclose a first group of services for use in programming. Rather, Evans discloses changing the overall visual appearance or “theme” of the various graphical components which are included in an application. In contrast, Claim 23 may include services to generate graphical objects for use in programming. In light of the foregoing, removal of the pending rejection is requested and allowance is solicited.

As amended **Independent Claim 29**, now in part, recites:

- “calling one or more first functions for formatting data for inclusion in an application”

The art of record does not disclose this feature. For at least the foregoing reasons, the pending rejection is improper. Removal of the pending rejection is requested and allowance is solicited.

With respect to **Independent Claim 36**, the pending rejection is believed to be obviated by the pending amendment. Claim 36 has been amended to more particularly point out the systems use in creating geometric shapes “such that the plurality of geometric shapes are configured for inclusion in an application being generated.” Support for the amendment may be found throughout the specification, as filed, and at least at page 5, lines 2-6.

**Independent Claim 44** has been amended to more particularly point out the subject matter which is not shown in the art of record. The pending rejections are in applicable as Claim 44 now, in part, recites “calling one or more fifth functions for associating the graphical objects with data sources.” In light of the foregoing, removal of the pending rejection is requested and allowance is solicited.

**Claims 2-15, 17-22, 24-28, 30-35, 37-43 45, 46, 48-52 and (new claims) 59-60**, are allowable as depending from an independent claim which is in a condition for allowance. Applicant traverses the rejection. Claims 2-15, 17-22, 24-28, 30-35, 37-43 45, 46, 48-52 and 59-60 recite additional features which are

not found in the art of record. Removal of the pending rejection is requested and allowance is solicited.

### **35 U.S.C. § 103(a) Rejection**

**Claims 9, 10, 11, 13, and 40** are rejected under 35 U.S.C. § 103(a) as being obvious over Evans in view of various secondary references. Claims 9 and 10 are rejected over Evans in-view of U.S. Patent Publication Number 2002/0093419 naming Bangalore et al. (herein referred to as "Bangalore"). Claims 11 and 13 are rejected over Evans in view of U.S. Patent Publication Number 2002/0054046 naming Will (herein referred to as "Will"). Claim 40 is rejected over Evans in-view of U.S. Patent Number 6,353,451 issued to Teibel et al. (herein referred to as "Teible"). Applicant respectfully traverses the rejection.

Presuming a motivation to combine exists in each instance, the asserted combinations are improper for at least the following reasons. **Claims 9, 10, 11, 13, and 40** are allowable as depending from independent claims which are in a condition for allowance. For at least the foregoing reasons, the pending rejection is improper. Removal of the pending rejection is requested and allowance is solicited.

### **Conclusion**

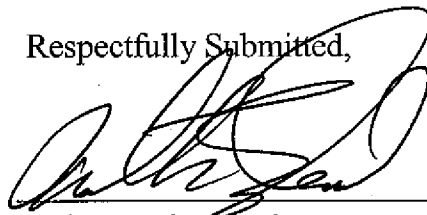
All of the claims are in condition for allowance. Accordingly, Applicant requests a Notice of Allowability be issued forthwith. If the Office's next anticipated action is to be anything other than issuance of a Notice of Allowability,

Applicant respectfully requests a telephone call for the purpose of scheduling an interview.

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Respectfully Submitted,

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